

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CR-19-00315-PRW
)	
SHAUN LARON RUSSELL JR.,)	
)	
Defendant.)	

ORDER

Due to the COVID-19 pandemic, the Court suspended all criminal and civil jury trials for the months of April, May, June, and July 2020.¹ On July 20, 2020, the Chief Judge of the U.S. District Court for the Western District of Oklahoma entered General Order No. 20-19, stating that “[t]he Court will conduct *limited* criminal jury trials in August 2020,” that “[c]ounsel will be advised by the presiding judge if their case is set on the August 2020 docket,” and that “[a]ll other criminal jury trials on the August 2020 docket are continued, to be reset by the presiding judge, who will also address trial-related deadlines.”² That same day, the Court entered an Order (Dkt. 24) advising that this action

¹ Order ¶ 3, at 1, *In re Serv. Of Process by U.S. Marshals Serv. & Suspension of Grand Jury Sessions & Jury Trials*, No. G.O. 20-8 (W.D. Okla. Mar. 17, 2020); Order ¶ 2, at 1, *In re Suspension of Grand Jury Sessions & Jury Trials in May 2020*, No. G.O. 20-10 (W.D. Okla. Apr. 3, 2020); Order ¶ 2, at 1, *In re Suspension of Jury Trials & Naturalization Ceremonies*, No. G.O. 20-13 (W.D. Okla. May 6, 2020); *In re Suspension of July 2020 Criminal Jury Trials*, No. G.O. 20-18 (W.D. Okla. July 7, 2020).

² Order at 1, *In re Resumption of Criminal Jury Trials in August 2020*, No. G.O. 20-19 (W.D. Okla. July 20, 2020) (emphasis added).

was not one of the limited criminal jury trials that would be conducted in August 2020 and continuing the trial to the Court's September 2020 jury trial docket.

On August 21, 2020, the Chief Judge entered General Order No. 20-20, stating that "[t]he Court will conduct *limited* criminal jury trials in September 2020," that "[c]ounsel will be advised by the presiding judge if their case is set on the September 2020 docket," and that "[a]ll other criminal jury trials on the September 2020 docket are continued, to be reset by the presiding judge, who will also address trial-related deadlines."³

This action will not be one of the limited criminal jury trials conducted in September 2020. Accordingly, this case shall be **STRICKEN** from the Court's September 2020 jury trial docket, and **RESET** on the Court's October 2020 jury trial docket.

The Court finds that the COVID-19 pandemic continues to be a factor in the forty counties comprising the Western District of Oklahoma. As of Friday, August 21, 2020, the total number of confirmed cases of COVID-19 in Oklahoma is up to 51,746, the total number of COVID-19 related deaths is 715, and the number of active cases is 7,614.⁴ The Centers for Disease Control and Prevention (CDC) and Oklahoma State Department of Health (OSDH) continue to recommend social distancing. On July 30, 2020, the Governor of the State of Oklahoma issued the Third Amended Executive Order No. 2020-20, finding that a "health crisis still exists[] and still needs to be addressed in various ways by

³ Order at 1, *In re September 2020 Criminal Jury Trials & Suspension of Civil Jury Trials*, No. G.O. 20-20 (W.D. Okla. Aug. 21, 2020) (emphasis added).

⁴ Okla. State Dep't Health, *Executive Order COVID-19 Report August 21, 2020*, at 2, available at https://coronavirus.health.ok.gov/sites/g/files/gmc786/f/eo_-_covid-19_report-8-21-20.pdf (last visited Aug. 24, 2020).

Executive Order,” declaring that all 77 counties of Oklahoma were still under an “emergency caused by the threat of COVID-19,” and directing, among other things, that individuals follow CDC guidelines for social distancing and for gathering in groups and that businesses adhere to the Oklahoma Department of Commerce’s Open Up and Recover Safely (OURS) Plan.⁵ The OURS Plan similarly advises citizens to “minimize time spent in crowded environments and [to] continue following CDC guidelines regarding social distancing” during Phase 3 of the Plan,⁶ which the State entered on June 1st.⁷ The social distancing requirements effectively limit the number of jury trials that can be conducted at one time because the Court must ensure that jurors maintain appropriate social distancing. The Western District simply could not summon the number of potential jurors necessary to try all the cases set to be tried on the September 2020 trial docket or conduct all those trials without jeopardizing the health and wellness of jurors, parties, and court personnel alike. All these factors counsel in favor of continuing this matter to the October 2020 trial docket. The period of delay resulting from this continuance is excludable under § 3161(h)(7) of the Speedy Trial Act, as the Court finds the ends of justice served by entering

⁵ Okla. 3d Am. Exec. Order No. 2020-20, at 1, 5, *available at* <https://www.sos.ok.gov/documents/executive/1953.pdf> (last visited Aug. 24, 2020).

⁶ Okla. Dep’t Commerce, *Open Up and Recover Safely: A Three-phased Approach to Open Oklahoma’s Economy* 4 (rev. Aug. 3, 2020), *available at* <https://www.okcommerce.gov/wp-content/uploads/Open-Up-and-Recover-Safely-Plan.pdf> (last visited Aug. 24, 2020).

⁷ Oklahoma Commerce, Open Up and Recover Safely (OURS) Plan, <https://www.okcommerce.gov/covid19/ours-plan/> (last visited Aug. 24, 2020).

this continuance outweigh the best interests of the public and the defendant to a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

Further, the Court sets this matter for a Pretrial Conference on Tuesday, September 22, 2020 at 9:00 a.m., before Judge Patrick R. Wyrick, in Courtroom No. 503 of the William J. Holloway, Jr. United States Courthouse, 200 N.W. 4th Street, Oklahoma City, Oklahoma.

IT IS SO ORDERED this 1st day of September, 2020.

A handwritten signature in black ink, appearing to read 'P. Wyrick', is written over a horizontal line.

PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE